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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,438	11/16/2001	Bruce Young	P1758US00	6122
24333	7590	07/01/2004	EXAMINER	
GATEWAY, INC. ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			PEYTON, TAMMARA R	
			ART UNIT	PAPER NUMBER
			2182	
			DATE MAILED: 07/01/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application

09/992,438

Applicant(s)

YOUNG, BRUCE

Examiner

Tammara R Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☒ Claim(s) 20-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

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### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Porrazzo et al.*, (US 5,872,855).

As per claim 15, *Porrazzo* teaches a dual-mode speaker capable of automatically reproducing audio from either an analog or a digital source. Specifically, *Porrazzo* teaches the use of a speaker input, a means for detecting digital audio connected to said speaker input; and a digital to analog converter connected to said speaker input for converting a digital input signal into an analog signal, an amplifier and speaker. *Porrazzo* (col. 9, lines 25-52) teaches a system that automatically recognizes whether the received signal is in analog or digital form. (*Porrazzo*, Figs 8-12, col. 9, lines 55-col. 10, lines 1-11) One of ordinary skilled would readily recognize that detecting a digital or analog signal is well known in the art. However, *Porrazzo* does not expressly teach a switch for changing said speaker input from the analog signal to a digital to analog converter when digital audio is detected. Nonetheless, *Porrazzo* specifically teaches:

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“the digital signal can be converted to an analog signal with a digital to analog converter and *then* be sent to the loudspeaker”, col. 9, lines 50-52. *Porrizzo* teaches that there is no need to capture and convert the received analog source before sending the analog source to the loudspeaker. It would have been obvious to one of ordinary skill at the time the invention was made that *Porrizzo* teaches some such of means to directs the digital audio signal to an digital to analog converter when a digital audio signal is detected, because *Porrizzo* teaches automatic detection of a digital source or an analog source and capturing/converting the digital source to an analog source before sending the digital source to the loudspeaker.

As per claims 16, 17, and 18, *Porrizzo* teach wherein said means for detecting digital audio includes a filter that detects a range (low or high) of frequencies. (col. 9, lines 25-45)

### ***Allowable Subject Matter***

Claims 1-14 are allowed over the prior art. Claims 20-23 are objected to as being dependent upon a rejected base claim.

### ***Response to Applicant's Arguments***

Claim 15 has the claim wording "said speaker input from the analog signal to a digital to analog converter ~~"corresponding to the detection of the digital signal."~~

Examiner is taking the position that *Porrazzo* will direct the digital audio signal to an digital to analog converter corresponding to the detection of a digital audio signal.

Further, Applicant does not specifically claim a hardware switch and *Porrazzo* does not expressly teach of a hardware switch that changes said speaker input from the analog signal to a digital to analog converter when digital audio is detected. However, Examiner is taking the position that *Porrazzo* specifically teaches intercepting the digital audio signal before the digital audio signal is outputted to the speaker. Examiner is taking the position that the redirection of the intercepted digital audio signal could be achieved via a software switch that will direct the digital audio signal to the digital to analog so that the digital audio signal is converted to an analog signal, col. 9, lines 50-52.

### ***Conclusion***

Applicant's arguments with respect to claims 15-19 have been considered but are moot in view of the new ground(s) of rejection. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

USTPO, 2011 South Clark Place, Customer Window  
Crystal Plaza Two, Lobby Room 1B03, Arlington, VA, 22202 Crystal Park II, 2121.

  
Tammara Peyton

June 28, 2004